

1 Use of Cash Collateral and Granting Replacement Liens (the “**Motion**”) filed by a debtor in
2 possession, Russell Wayne Lester (“**Debtor in Possession**”).

3 On September 1, 2020, Debtor in Possession made his Emergency Motion for and
4 Order (A) Authorizing Interim and Final Use of Cash Collateral; (B) Granting Replacement
5 Liens; and (C) Scheduling Final Hearing Pursuant to Bankruptcy Rule 4001(the “**Motion**”).
6 On September 8, 2020, the Court entered its Order on the Motion (the “**First Interim
Order**”) which authorized the Debtor to use the cash collateral of Bank and Prudential
7 Insurance Company of America (“**Prudential**”) and any disputed producer lien creditors that
8 may exist (collectively, “**Secured Creditors**”) on an interim basis through September 16,
9 2020, for necessary expenses in the amount of \$166,325.00 plus a 15% variance for
10 emergencies during the pre-harvest period as described in the Motion.
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12 In addition, for the purpose of attempting to provide adequate protection for the
13 interests of the Secured Creditors, to the extent of any diminution in Secured Creditor’s
14 interest in the Debtor in Possession’s pre-petition cash collateral caused by Debtor in
15 Possession’s post-petition use of such pre-petition cash collateral, the First Interim Order
16 granted to the Secured Creditors:

17 a. A valid, perfected, and enforceable replacement lien under Sections
18 105, 361(2), and 363(e) of the Bankruptcy Code in the Debtor in Possession’s post-petition
19 cash collateral and proceeds thereof to the same extent and with the same priority that Secured
20 Creditors’ held in the Debtor in Possession’s pre-petition cash collateral as of the Petition Date,
21 (the “**Cash Collateral Replacement Lien**”);
22

23 b. A valid, perfected, and enforceable replacement lien under Sections
24 105, 361(2), and 363(e) of the Bankruptcy Code in the Conservation Easement, as defined in
25 the Motion, to the same extent and with the same priority that Secured Creditors held in the
26 Debtor in Possession’s pre-petition cash collateral as of the Petition Date (the “**Conservation
Easement Replacement Lien**”).
27

28 In addition, for the purpose of attempting to provide adequate protection for the

1 interests of Bank, to the extent of any diminution in Bank's interest in the Debtor's pre-petition
2 cash collateral caused by Debtor's post-petition use of such pre-petition cash collateral, the
3 Interim Order granted to Bank:

4 a. A valid, perfected, and enforceable replacement lien under Sections
5 105, 361(2), and 363(e) of the Bankruptcy Code in the Putah Creek Road real property, as
6 defined in the Motion to the same extent and with the same priority that the Bank held in the
7 Debtor in Possession's pre-petition cash collateral as of the Petition Date (the "**Putah Creek**
8 **Replacement Lien**");

9 b. To the extent that FNB does not already possess a valid, first priority
10 lien in the Debtor's crops now growing or grown in the 2020 crop year (the "**2020 Crops**"), a
11 valid, perfected, and enforceable first-priority lien, under Sections 105, 361(2), and 364(d) of
12 the Bankruptcy Code on the all 2020 Crops, senior in priority to any other security interests
13 and liens in the 2020 Crops, to the same extent and validity of the lien of FNB held in the
14 Debtor's pre-petition cash collateral as of the Petition Date (the "**Post-Petition Crop Lien**").

15 The First Interim Order set a continued interim hearing on the Motion for September
16 17, 2020.

18 On September 25, 2020, the Court entered its second Order on the Motion (the
19 "**Second Interim Order**") authorizing use of cash collateral on an interim basis through
20 September 16, 2020, for necessary expenses in the amount of \$189,233.00 plus a 10%
21 variance for emergencies during the pre-harvest period as described in the Motion, as
22 described in the Debtor in Possession's budget, attached as Exhibit 1 to the Second Order (the
23 "**Amended Budget**"). The Second Interim Order continued to provide the Cash Collateral
24 Replacement Lien, the Conservation Easement Replacement Lien, the Putah Creek
25 Replacement Lien, and the Post-Petition Crop Lien (collectively, the "**Replacement Liens**").
26 The Second Interim Order set a continued interim hearing on the Motion for October 1, 2020.

27 On October 5, 2020, the Court entered its third Order on the Motion (the "**Third Interim**
28 **Order**") authorizing use of cash collateral on an interim basis through the week ending October

1 39, 2020, for necessary expenses in the amount of \$252,115 plus a 10% variance for
2 emergencies during the pre-harvest period as described in the Motion, as described in the
3 Amended Budget. The Third Interim Order continued to provide the Replacement Liens. The
4 Third Interim Order set a continued interim hearing on the Motion for October 29, 2020.

5 **CONDITIONAL CONSENT**

6 FNB conditionally consents to the Debtor in Possession's continued use of cash
7 collateral through the week ending November 27, 2020, for necessary expenses in the
8 amounts and for the purposes consistent with the amounts and purposes set forth in the
9 Amended Budget for that period, with a 10% variance for emergencies in the pre-harvest
10 period. FNB's consent is conditioned upon the following:

- 11 1. The Secured Creditors shall be granted the Replacement Liens, as set forth in the
12 First Interim Order, the Second Interim Order, and the Third Interim Order (the
13 "**Prior Orders**").
- 14 2. Counsel for FNB shall have approved the form of Order granting continued use of
15 cash collateral, which shall be consistent with the form of the Prior Orders.

16 Dated: October 26, 2020

17 **KRAFT LAW**

18 */s/ Douglas H. Kraft*

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20 Douglas H. Kraft
Attorney for First Northern Bank of Dixon